

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

DEPARTMENT OF ECONOMIC DEVELOPMENT,
STATE COMMITTEE OF PSYCHOLOGISTS,

Petitioner,

v.

WALTER J. CEGELKA,

Respondent.

No. 90-000250PS

JOINT STIPULATION OF FACTS, WAIVER OF HEARINGS BEFORE
THE ADMINISTRATIVE HEARING COMMISSION AND DEPARTMENT
OF ECONOMIC DEVELOPMENT, STATE COMMITTEE OF
PSYCHOLOGISTS, AND CONSENT ORDER WITH
JOINT PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.150(1)) and pursuant to the terms of § 536.060, RSMo 1986, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 1986, the parties waive the right to a hearing and decision of the above-styled case by the Administrative Hearing Commission, and, additionally, the right to a disciplinary hearing before the Department of Economic Development, State Committee of Psychologists under § 621.110, RSMo 1986, and stipulate and agree that a final disposition of this matter may be effectuated as described below.

1. Respondent, Walter J. Cegelka, acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him; and subsequently, the right to a disciplinary hearing before the Department of Economic Development, State Committee of Psychologists at which time he may present evidence in mitigation of discipline. Being aware of these rights provided him by operation of law, the respondent knowingly and voluntarily waives each and every one of these rights, and freely enters into this Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and Department of Economic Development, State Committee of Psychologists, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agrees to abide by the terms of this document, as they pertain to him.

2. Respondent acknowledges that he has received a copy of the Complaint filed with the Administrative Hearing Commission in this cause. For the purpose of settling this dispute, and not as an admission of guilt, Walter J. Cegelka stipulates that the factual allegations contained in the Complaint are true and

stipulates with petitioner that his license as a psychologist, numbered 490, is subject to disciplinary action by the Department of Economic Development, State Committee of Psychologists in accordance with the provisions of Chapter 621 and § 337.035, RSMo 1986.

3. For purposes of resolving this administrative matter, respondent does not contest or admit the validity or accuracy of the allegations contained in the Complaint filed with the Administrative Hearing Commission in this cause, but for the purpose of resolving this administrative matter, respondent stipulates with petitioner that respondent's license as a psychologist, numbered 490, is subject to disciplinary action by the Department of Economic Development, State Committee of Psychologists in accordance with the provisions of Chapter 621 and § 337.035.2, RSMo 1986.

4. Based upon the foregoing, petitioner and respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

Joint Proposed Findings of Fact

1. Petitioner, State Committee of Psychologists, is an agency of the state of Missouri, created and established pursuant to Section 337.050, RSMo, for the purpose of

administering and enforcing the provisions of Chapter 337, RSMo as it pertains to psychologists and the practice of psychology.

2. Respondent, Walter J. Cegelka, is licensed by petitioner as a psychologist.

3. Respondent's license, numbered 490, was current and active at all times material herein. On or about November 20, 1986, an Indictment was filed against respondent in the case of United States of America v. Walter J. Cegelka, Case No. 86-00293 CR(3) in the United States District Court for the Eastern District of Missouri, charging respondent with committing three counts of willfully and knowingly making and causing to be made a false statement of material facts on an application for benefits and payments under subchapter XVIII.

4. On October 16, 1987, Judgment was entered against respondent in the case of United States of America v. Walter J. Cegalka, Case No. 86-00293 CR(3) after he was found guilty after trial by jury of willfully and knowingly making and causing to be made a false statement of material facts on an application for benefits and payments under subchapter XVIII of Title 42, U.S.C.

5. The aforementioned conduct referred to in paragraphs 3 and 4 is in violation of 42 U.S.C. § 1395nn(a)(1), which states, in pertinent part, as follows:

(a) Making or causing to be made false statements or representations

Whoever--

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this subchapter,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this subchapter, be guilty of a felony and upon conviction thereof fined not more than \$25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than \$10,000 or imprisoned for not more than one year, or both.

6. In the case of United States of America v. Walter J. Cegelka, Case No. 86-00293 CR(3), respondent was ordered to pay a total of \$25,150 and sentenced to a term of six months imprisonment on Count 7 to be followed by a period of five years probation on Count 8, which was to be served consecutive to a term of five years probation on Count 9.

7. Petitioner has promulgated 4 CSR 235-5.020 which states, in pertinent part, as follows:

(4) Moral and Legal Standards: Psychologists' moral and ethical standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities or reduce the public trust in psychology and psychologists. Regarding their own behavior, psychologists are sensitive to prevailing community standards and to the possible impact that conformity to or deviation from these standards may have upon the quality of their performance as psychologists. Psychologists

are also aware of the possible impact of their public behavior upon the ability of colleagues to perform their professional duties.

(C) In their professional roles, psychologists avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by their actions.

8. On or about November 14, 1985, respondent while performing the function of a licensed psychologist willfully and knowingly made and caused to be made false statements of material facts on a claim form requesting reimbursement from Medicare for services allegedly rendered to a patient of Villa Capri Nursing Home.

9. In the claim form referred to in paragraph 8 above, respondent represented that a physician had referred him to treat the patient and that the patient had signed the claim form.

10. Respondent was not referred by a physician to treat the patient referred to in paragraphs 8 and 9 above.

11. Respondent did not obtain the patient's signature on the claim form referred to in paragraphs 8 and 9 above.

12. On or about November 20, 1985, respondent while performing the function of a licensed psychologist willfully and knowingly made and caused to be made false statements of material facts on a claim form requesting reimbursement from Medicare for services allegedly rendered to a patient of Villa Capri Nursing Home.

13. In the claim form referred to in paragraph 12 above, respondent represented that a physician had referred him to treat the patient and that the patient had signed the claim form.

14. Respondent was not referred by a physician to treat the patient referred to in paragraph 12 above.

15. Respondent did not obtain the patient's signature on the claim form referred to in paragraph 12 above.

16. On or about November 27, 1935, respondent willfully and knowingly made and caused to be made false statements of material facts on a claim form requesting reimbursement from Medicare for services allegedly rendered to a patient of Villa Capri Nursing Home.

17. In the claim form referred to in paragraph 16 above, respondent represented that a physician had referred him to treat the patient and that the patient had signed the claim form.

18. Respondent was not referred by a physician to treat the patient referred to in paragraph 16 above.

19. Respondent did not obtain the patient's signature on the claim form referred to in paragraph 16 above.

20. Petitioner has promulgated 4 CSR 235-5.020 which states, in pertinent part, as follows:

(4) Moral and Legal Standards: Psychologists' moral and ethical standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities or reduce the public trust in psychology and psychologists. Regarding their own behavior, psychologists are sensitive to prevailing community standards and to the possible impact

that conformity to or deviation from these standards may have upon the quality of their performance as psychologists. Psychologists are also aware of the possible impact of their public behavior upon the ability of colleagues to perform their professional duties.

(C) In their professional roles, psychologists avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by their actions.

Joint Proposed Conclusions of Law

1. Respondent's conduct, as established by the foregoing, falls within the intendments of Section 337.035.2(2), (4), (5), (6), (13) and (15), RSMo 1986, which provides, in pertinent part, as follows:

2. The department may cause a complaint to be filed with the administration hearing commission as provided by chapter 161, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(13) Violation of any professional trust or confidence;

(15) Being guilty of unethical conduct as defined in "Ethical Standards of Psychologists" as adopted by the department and filed with the secretary of state.

Joint Agreed Disciplinary Order

2. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the petitioner in this matter under the authority of § 621.110, RSMo 1986:

A. Effective ten (10) days after the date the Administrative Hearing Commission approves this order, Walter J. Cegelka's psychology license, numbered 490, is suspended for a period of three (3) years. Within ten (10) days after the Administrative Hearing Commission approves this order, respondent Walter J. Cegelka shall return his psychology license and wall-hanging certificate to the State Committee of Psychologists to be held during the

period of the suspension. At the end of the period of suspension, Walter J. Cegelka's psychology license, numbered 490, is placed on probation for a period of five (5) years. During the period of suspension and probation (the "disciplinary period"), respondent shall pay all fees required for licensing and to maintain his license in a current and active state. During the period of probation, the respondent shall be entitled to engage in the practice of psychology, provided he adheres to all the terms of this Consent Order.

B. During the disciplinary period, respondent shall keep the State Committee of Psychologists apprised at all times in writing of his current home and work addresses and telephone numbers at each place of employment.

C. During the disciplinary period, respondent shall comply with all provisions of Chapters 337, RSMo, and all applicable federal and state drug laws, rules and regulations, and with all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.

D. During the disciplinary period, respondent shall not serve in a supervisory capacity without prior approval of the State Committee of Psychologists.

E. During the period of suspension, respondent shall not engage in any counseling, guidance, psychotherapy, or act which falls within the definition of the term

"psychology" as set forth in Section 337.015.3 and .4, RSMo, whether a license is required for such acts or not.

F. During the disciplinary period, the respondent shall undergo a minimum of two (2) psychological evaluations performed by a licensed psychologist specializing in the practice of clinical psychology (hereinafter referred to as the "evaluating psychologist") approved by the petitioner. Prior to undergoing any psychological evaluation with the evaluating psychologist, respondent shall submit to the State Committee of Psychologists a list of five (5) licensed psychologists specializing in the practice of clinical psychology for its approval. The first psychological evaluation shall be performed within ninety (90) days following the date the period of suspension becomes effective. A written evaluation concerning respondent shall be submitted by the evaluating psychologist to the State Committee of Psychologists within ninety (90) days from the date the period of suspension becomes effective.

G. Within ninety (90) days prior to respondent's period of probation expiring, respondent shall submit to a psychological evaluation performed by a licensed psychologist specializing in the practice of clinical psychology. A written evaluation concerning respondent shall be submitted by the evaluating psychologist to the State Committee of Psychologists within ninety (90) days

prior to the expiration of respondent's period of probation. It shall be the responsibility of the respondent to ensure that all evaluations are submitted by the evaluating psychologist to the State Committee of Psychologists in a timely manner.

H. The State Committee of Psychologists will consider recommendations of the evaluating psychologist in making its recommendations regarding psychological testing, evaluation, supervision, therapy or other treatment that the State Committee of Psychologists finds appropriate for respondent. During the disciplinary period, respondent shall abide by the recommendations of the State Committee of Psychologists and shall engage in all psychological testing, evaluation, supervision, therapy or other treatment as deemed appropriate by the State Committee of Psychologists. The respondent shall bear the cost of all evaluations and all testing, therapy, supervision, or other treatment.

I. During the disciplinary period, the State Committee of Psychologists reserves the right and respondent agrees to submit to all psychological evaluations, the State Committee of Psychologists shall deem appropriate.

J. During the disciplinary period, respondent shall report to the State Committee of Psychologists in writing once every three (3) months, beginning on the date this

Consent Order becomes effective, stating truthfully whether or not he has complied with all terms and conditions of this disciplinary order.

K. During the period of suspension, respondent shall complete a course in ethics for psychologists from a doctoral degree program approved by the American Psychological Association and shall receive a grade of B or better in said course. At the completion of this course, respondent shall provide the State Committee of Psychologists with documentation, including but not limited to official transcripts, reflecting his enrollment and satisfaction of this condition.

L. During the disciplinary period, respondent shall make himself available for a personal interview to be conducted by a member of the State Committee of Psychologists or the Executive Director, State Committee of Psychologists to establish the respondent's progress during the disciplinary period. Respondent shall be given twenty (20) days notice before the date each and every personal interview is to be conducted.

M. Respondent shall advise in writing within forty-five (45) days after this Consent Order becomes effective all of his current clients as to the disciplinary action imposed. Within forty-five (45) days after the Administrative Hearing Commission approves this Consent Order, respondent shall terminate all relationships with

his current clients and shall make appropriate referrals. Within ten (10) days after the respondent terminates his relationships with his current clients and makes appropriate referrals, respondent shall sign and submit to the State Committee of Psychologists an affidavit signed before a notary public swearing or affirming under penalties of perjury that he has terminated all of his relationships with his current clients and that he has made appropriate referrals. Within fifteen (15) days after this Consent Order becomes effective, respondent shall submit to the State Committee of Psychologists for its approval, a copy of the writing respondent plans to submit to his current clients advising them as to the disciplinary action imposed. Before respondent submits any writing to his current clients advising them of the disciplinary action imposed, said writing shall be approved by the State Committee of Psychologists. Within ten (10) days after respondent advises in writing all of his current clients as to the disciplinary action imposed, respondent shall sign and submit to the State Committee of Psychologists an affidavit signed before a notary public swearing or affirming under penalties of perjury that he has provided written notification to his current clients as to the disciplinary action imposed. During the period of probation, respondent shall advise all of his current clients that his license is currently on probation.

Respondent shall advise all of his current clients when the period of probation terminates.

3. Upon the expiration of said five (5) years of probation, the respondent's license as a psychologist in Missouri shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Department of Economic Development, State Committee of Psychologists determines that the respondent has violated any term or condition of this Consent Order, the Department of Economic Development, State Committee of Psychologists may, in its discretion, vacate and set aside the discipline imposed herein, and may suspend, revoke or otherwise lawfully discipline respondent's psychology license.

4. No order shall be entered by the Department of Economic Development, State Committee of Psychologists pursuant to the preceding paragraph of this Consent Order without notice and an opportunity for hearing before the Department of Economic Development, State Committee of Psychologists in accordance with the provisions of Chapter 536, RSMo.

5. If the Department of Economic Development, State Committee of Psychologists determines that the respondent has violated a term or condition of this Consent Order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Department of Economic Development, State Committee of Psychologists may elect to pursue any lawful remedies or

procedures afforded it and is not bound by this stipulation in its determination of appropriate legal actions concerning that violation.

6. In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and Department of Economic Development, State Committee of Psychologists, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by the petitioner in this above-styled action.

RESPONDENT

PETITIONER

Walter J. Cegelka

Tom Duncan
Acting Executive Director
State Committee of
Psychologists

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Attorneys for Petitioner

BEFORE THE
STATE COMMITTEE OF PSYCHOLOGISTS
STATE OF MISSOURI

IN THE MATTER OF:)	
)	
WALTER J. CEGELKA)	
12145 COUNTRY MANOR LANE)	
ST. LOUIS, MO 63141)	
)	Case No. 90-000250PS
)	
LICENSE NO. PY00490,)	
)	
Respondent.)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DISCIPLINARY ORDER

FINDINGS OF FACT

1. On November 14, 1990, the Administrative Hearing Commission entered its Findings of Fact and Conclusions of Law in the case of State Committee of Psychologists vs. Walter J. Cegelka, Case No. PS-90-000250PS. In those Findings of Fact and Conclusions of Law, the Administrative Hearing Commission found that respondent's Missouri psychologist license is subject to disciplinary action by this Committee for violation of 337.035.2(2), (4), (5), (6), (13) and (15), RSMo, 1989:

2. This Committee has received the record of the proceedings before the Administrative Hearing Commission and the Findings of Fact and Conclusions of Law of that Commission.

3. This Committee set this matter for an evidentiary hearing and served notice of this disciplinary hearing upon respondent in a proper and timely fashion.

4. Pursuant to notice and section 621.110, RSMo 1989, this Committee held an evidentiary hearing on February 9, 1991, at the Division of Professional Registration, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against respondent's license. Respondent was not present and was not represented by counsel.

5. Seven of the eight members of the Committee were present throughout the disciplinary hearing. Further, each member present of this Committee had read the Administrative Hearing Commission's Findings of Fact and Conclusions of Law.

6. The Findings of Facts and related Conclusions of Law by the Administrative Hearing Commission in Case No. 90-000250PS are incorporated herein by reference as if fully set forth in this document.

CONCLUSIONS OF LAW

1. This Committee has jurisdiction to take disciplinary actions against respondent's license pursuant to the provisions of Chapters 337 and 621, RSMo.

2. Respondent's license is subject to revocation, suspension or probation by this Committee pursuant to section 337.035.2, RSMo, 1989.

DISCIPLINARY ORDER

THEREFORE, having fully considered all the evidence before this Committee, and giving full weight to the findings and conclusions of the Administrative Hearing Commission, it is the ORDER of this Committee that:

1. The psychologist license of respondent is hereby revoked. Respondent shall return his wall-hanging license to the Committee within thirty (30) days.

2. This Order does not bind the Committee or restrict the remedies available to it concerning any future violation of Chapter 337, RSMo by the respondent.

IT IS SO ORDERED:

DEPARTMENT OF ECONOMIC DEVELOPMENT
CARL M KOUPAL, JR., DIRECTOR


TOM DUNCAN, DIRECTOR
DIVISION OF PROFESSIONAL REGISTRATION

Date: 3-21-91